

Homeland Security Department

3003.204

CIO Chief Information Officer
COCO Chief of the Contracting Office
COR Contracting Officers Representative
COTR Contracting Officer's Technical Representative
CPO Chief Procurement Officer
D&F Determination and Findings
DOTBCA Department of Transportation Board of Contract Appeals
FOIA Freedom of Information Act
HCA Head of Contracting Activity
J & A Justification and Approval for Other than Full and Open Competition
KO Contracting officer
MD Management Directive
OCPO Office of the Chief Procurement Officer
OE Organizational Element
OIG Office of the Inspector General
OSDBU Office of Small and Disadvantaged Business Utilization
PCR SBA's Procurement Center Representative
RFP Request for Proposal
SBA Small Business Administration
SBS Small Business Specialist
SPE Senior Procurement Executive

PART 3003—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 3003.1—Safeguards

Sec.
3003.101 Standards of conduct.
3003.101-3 Agency regulations.

Subpart 3003.2—Contractor Gratuities to Government Personnel

3003.203 Reporting suspected violations of the Gratuities clause.
3003.204 Treatment of violations.

Subpart 3003.3—Reports Of Suspected Antitrust Violations

3003.301 General.

Subpart 3003.4—Contingent Fees

3003.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

Subpart 3003.5—Other Improper Business Practices

3003.502 Subcontractor kickbacks.
3003.502-2 Subcontractor kickbacks.

Subpart 3003.9—Whistleblower Protections for Contractor Employees

3003.901 Definitions.

AUTHORITY: 41 U.S.C. 418b (a) and (b).

SOURCE: 68 FR 67871, Dec. 4, 2003, unless otherwise note.

Subpart 3003.1—Safeguards

3003.101 Standards of conduct.

3003.101-3 Agency regulations.

(a) Government-wide and Department of Homeland Security regulations governing the conduct and responsibilities of employees are contained in 5 CFR parts 2635 and 3101, and MD 0480, Ethics/Standards of Conduct.

Subpart 3003.2—Contractor Gratuities to Government Personnel

3003.203 Reporting suspected violations of the Gratuities clause.

(a) Suspected violations of the Gratuities clause shall be reported to the contracting officer responsible for the acquisition (or the COCO if the contracting officer is suspected of the violation). The contracting officer (or the COCO) shall obtain from the person reporting the violation, and any witnesses to the violation, the following information:

- (1) The date, time, and place of the suspected violation;
- (2) The name and title (if known) of the individual(s) involved in the violation; and
- (3) The details of the violation (*e.g.*, the gratuity offered or intended) to obtain a contract or favorable treatment under a contract.

(4) The person reporting the violation and witnesses (if any) shall be requested to sign and date the information certifying that the information furnished is true and correct.

(b) The contracting officer shall submit the report to the COCO (unless the alleged violation was directly reported to the COCO) and the Head of the Contracting Activity (HCA) for further action. The COCO and HCA will determine, with the advice of OE legal counsel, whether the case warrants submission to the OIG, or other investigatory organization.

3003.204 Treatment of violations.

(a) The HCA is the individual to determine whether a Gratuities clause

3003.301

violation has occurred. If the HCA has been personally and substantially involved in the specific procurement, the advice of Government legal counsel should be sought to determine whether an alternate decision maker should be designated.

(b) The COCO shall ensure that the hearing procedures required by (FAR) 48 CFR 3.204(b) are afforded to the contractor. Government legal counsel shall be consulted regarding the appropriateness of the hearing procedures that are established.

(c) If the HCA determines that the alleged gratuities violation occurred during the “conduct of an agency procurement” the COCO shall consult with Government legal counsel regarding the approach for appropriate processing of either the Procurement Integrity Act violation or the Gratuities violation.

Subpart 3003.3—Reports Of Suspected Antitrust Violations

3003.301 General.

(b) The procedures at (HSAR) 48 CFR 3003.203 shall be followed for suspected antitrust violations, except reports of suspected antitrust violations shall be coordinated with legal counsel for referral to the Department of Justice, if deemed appropriate.

Subpart 3003.4—Contingent Fees

3003.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

(a) The procedures at (HSAR) 48 CFR 3003.203 shall be followed for misrepresentation or violations of the covenant against contingent fees.

(b)(4) The procedures at (HSAR) 48 CFR 3003.203 shall be followed for misrepresentation or violations of the covenant against contingent fees, except reports of misrepresentation or violations of the covenant against contingent fees shall be coordinated with legal counsel for referral to the Department of Justice, if deemed appropriate.

48 CFR Ch. 30 (10–1–04 Edition)

Subpart 3003.5—Other Improper Business Practices

3003.502 Subcontractor kickbacks.

3003.502–2 Subcontractor kickbacks.

(g) The DHS OIG shall receive the prime contractor or subcontractors written report.

Subpart 3003.9—Whistleblower Protections for Contractor Employees

3003.901 Definitions.

Authorized official of an agency means the Department of Homeland Security’s CPO.

PART 3004—ADMINISTRATIVE MATTERS

Subpart 3004.1—Contract Execution

Sec.

3004.103 Contract clause.

Subpart 3004.4—Contract Clause

3004.470–4 Contract clause.

Subpart 3004.8—Government Contract Files

3004.804 Closeout of contract files.

3004.804–1 Closeout by the office administering the contract.

3004.804–5 Procedures for closing out contract files.

3004.804–570 Supporting closeout documents.

AUTHORITY: 41 U.S.C. 418b (a) and (b).

SOURCE: 68 FR 67871, Dec. 4, 2003, unless otherwise note.

Subpart 3004.1—Contract Execution

3004.103 Contract clause.

Insert the clause at (FAR) 48 CFR 52.204–1, Approval of Contract, in each solicitation where approval to award the resulting contract is required above the contracting officer level.

Subpart 3004.4—Contract Clause

3004.470–4 Contract clause.

The contracting officer shall insert a clause substantially the same as the